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Department of the Treasury
Washington, DC 20224

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
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Date:
August 19, 2010

LEGEND:

Taxpayer =

State X =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Dear _____ :

This ruling responds to a letter dated February 2, 2007, submitted on behalf of the Taxpayer by its authorized representatives. Taxpayer requests an extension of time to file an election under section 1092(b) of the Internal Revenue Code of 1986 and

section 1.1092(b)-4T(f) of the Temporary Income Tax Regulations.

FACTS

Taxpayer was formed under the laws of State X on Date 1. Taxpayer uses an accrual method of accounting and a calendar year as its tax year. Since Date 2, Taxpayer has been an entity taxed as a partnership. Taxpayer's business consists solely of trading securities for its own account.

Taxpayer's trading activities include taking positions in various financial instruments. In some cases, but not all, Taxpayer's positions constitute straddles within the meaning of section 1092(c) of the Code. Taxpayer has represented that it has filed timely mixed straddle elections under section 1.1092(b)-4T of the Regulations for taxable years prior to the taxable year ending on Date 6.

On Date 3, Taxpayer terminated for cause the employment of the officer of Taxpayer who had responsibility over all of Taxpayer's tax matters since the formation of Taxpayer. Taxpayer employed no other individual who had expertise in tax matters or understood the specific requirements of mixed straddle account elections.

While reviewing Taxpayer's mixed straddle account computations, Taxpayer's outside public accounting firm became aware that Taxpayer had begun additional trading activities. Upon raising the issue with Taxpayer, the accounting firm learned that the additional trading activities began on or around Date 4. Since this new trading began several weeks after the removal of the officer of Taxpayer responsible for all tax matters, Taxpayer inadvertently failed to timely file the required new mixed straddle account elections. After its failure to timely file became known, Taxpayer filed a late election on Date 5 and submitted a request for a private letter ruling from the Service that the election filed on Date 5 be deemed to be timely filed pursuant to section 1.1092(b)-4T(f)(1) of the Regulations.

LAW AND ANALYSIS

Section 1.1092(b)-4T(a) of the Regulations generally permits a taxpayer to elect (in accordance with paragraph (f) of section 1.1092(b)-4T) to establish one or more "mixed straddle accounts." Section 1.1092(b)-4T(b) defines a mixed straddle account to mean an account for determining gains and losses from all positions held as capital assets in a designated class of activities by the taxpayer at the time the taxpayer elects to establish a mixed straddle account.

Section 1.1092(b)-4T(f)(1) of the Regulations generally provides that, except as otherwise provided, the election to establish one or more mixed straddle accounts for a taxable year must be made by the due date (without regard to any extensions) of the

taxpayer's income tax return for the immediately preceding taxable year (or part thereof). Section 1.1092(b)-4T(f)(1) further provides that if a taxpayer begins trading or investing in positions in a new class of activities during a taxable year, the taxpayer must make the election with respect to the new class of activities by the later of the due date (without regard to any extensions) of the taxpayer's return for the immediately preceding year or 60 days after the first mixed straddle in the new class of activities is entered into. Finally, section 1.1092(b)-4T(f)(1) provides that if an election is made after the times specified above, the election will be permitted only if the Commissioner concludes that the taxpayer had reasonable cause for failing to make a timely election.

CONCLUSION

Based on the facts and representations submitted, we conclude that Taxpayer has shown reasonable cause for failing to make a timely election under section 1.1092(b)-4T(f) of the Regulations. Therefore, the mixed straddle account election for the taxable year ending on Date 6, filed on Date 5, will be considered as timely filed.

Except as specifically ruled upon above, no opinion is expressed as to the tax treatment of the transaction under the provisions of any other sections of the Code and Regulations which may be applicable thereto, or the tax treatment of any conditions existing at the time of or effects resulting from the transaction. Specifically, no opinion is expressed concerning whether the positions designated by Taxpayer as the class of activities is a permissible designation under section 1.1092(b)-4T(b)(2) of the Regulations.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Robert B. Williams
Robert B. Williams
Senior Counsel, Branch 3
Office of Associate Chief Counsel
(Financial Institutions & Products)